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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2009-8

11 DAWN LORI MALCOLM AKA DAWN LORI
HAMILTON AKA DAWN LORI NEAL
12 563 Cherokee Place
Nipomo, CA 93444

ACCUSATION

13 Registered Nurse License No. 457541

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation solely
19 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about August 31, 1990, the Board of Registered Nursing,
22 Department of Consumer Affairs issued Registered Nurse License No. 457541 to Dawn Lori
23 Malcolm ("Respondent"). The Registered Nurse License expired on March 31, 2000.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing,
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

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1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 “(b) Use any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
5 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
6 injurious to himself or herself, any other person, or the public or to the extent that such use
7 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
8 license.”

9 “(c) Be convicted of a criminal offense involving the prescription, consumption,
10 or self-administration of any of the substances described in subdivisions (a) and (b) of this
11 section, or the possession of, or falsification of a record pertaining to, the substances described in
12 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
13 thereof.”

14 8. Section 490 states:

15 “A board may suspend or revoke a license on the ground that the licensee has been
16 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
17 of the business or profession for which the license was issued. A conviction within the meaning
18 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
19 contendere. Any action which a board is permitted to take following the establishment of a
20 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
21 been affirmed on appeal, or when an order granting probation is made suspending the imposition
22 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
23 Penal Code.”

24 9. Section 118, subdivision (b) provides that the suspension, expiration,
25 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
26 disciplinary action during the period within which the license may be renewed, restored, reissued
27 or reinstated.

28 10. Section 125.3 provides, in pertinent part, that the Board may request the

1 administrative law judge to direct a licentiate found to have committed a violation or violations
2 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
3 enforcement of the case.

4 11. **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

5 a. "Methamphetamine" is a Schedule II controlled substances as defined in
6 Health and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug
7 pursuant to Business and Professions Code section 4022.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Convictions of Substantially Related Crimes)

10 12. Respondent is subject to disciplinary action under sections 490 and
11 2761(d) and (f) in that she was convicted of substantially related crimes as follows:

12 a. On or around March 27, 2007, Respondent pled nolo contendere to one
13 misdemeanor count of violating Health and Safety Code section 11377(A) (Unlawful Possession
14 of Controlled Substance) in the Superior Court for the State of California (County of San Luis
15 Obispo) in a case entitled "*The People of the State of California v. Dawn Lori Malcolm, aka*
16 *Dawn Lori Hamilton, aka Dawn Lori Neal*", Case No. F0003977650. The circumstances
17 concerning the conviction are that on or around January 3, 2007, Respondent was found to be in
18 possession of a controlled substance, to wit, Methamphetamine.

19 b. On or around July 21, 2005, Respondent pled nolo contendere to one
20 misdemeanor count of violating Health and Safety Code section 11377(A) (Unlawful Possession
21 of Controlled Substance) in the Superior Court for the State of California (County of San Luis
22 Obispo) in a case entitled "*The People of the State of California v. Dawn Lori Malcolm, aka*
23 *Dawn Lori Neal*", Case No. F000367718. The circumstances concerning the conviction are that
24 on or around January 11, 2005, Respondent was found to be in possession of a controlled
25 substance, to wit, Methamphetamine.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Drug Related Convictions)

3 13. Respondent is subject to disciplinary action under sections 2761(d), and
4 2762(c), in that on or about July 21, 2005 and again on March 27, 2007, Respondent was
5 convicted of violating Health and Safety Code section 11377(A) (Unlawful Use of a Controlled
6 Substance) as further set forth in paragraph 12.

7 THIRD CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct - Unlawful Possession of Narcotics)


9 14. Respondent is subject to disciplinary action under sections 2761(a) and (d)
10 and 2762(a), in that on or around January 11, 2005 and again on January 3, 2007, Respondent
11 was in possession of controlled substances, as further set forth in paragraph 12.

12 PRAAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the Board of Registered Nursing, Department of
15 Consumer Affairs issue a decision:

- 16 1. Revoking or suspending Registered Nurse License 457541, issued to
17 Respondent;
18 2. Ordering Respondent to pay the Board of Registered Nursing, Department
19 of Consumer Affairs the reasonable costs of the investigation and enforcement of this case,
20 pursuant to Business and Professions Code section 125.3;
21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 7/14/08

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24 RUTH ANN TERRY, M.P.H., R.N.
25 Executive Officer
26 Board of Registered Nursing
27 State of California
28 Complainant